

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

ERSTE-SPARINVEST)	
KAPITALANLAGEGESELLSCHAFT)	Electronically Filed
m.b.H., Derivatively on Behalf)	
of TELIK, INC.,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 07-CV-07881 (CM)
)	(ECF Case)
MICHAEL M. WICK, et al.,)	
)	
Defendants,)	
)	
and)	
)	
TELIK, INC.,)	
)	
Nominal Defendant.)	
)	

PLAINTIFF’S MOTION TO VOLUNTARILY DISMISS ACTION

PLEASE TAKE NOTICE that plaintiff Erste-Sparinvest Kapitalanlagegesellschaft m.b.H. (“Erste-Sparinvest”) hereby respectfully moves this Court to dismiss this action without prejudice, without notice, and without costs pursuant to Fed. R. Civ. P. 41(a)(2) and 23.1 for the reasons set forth below.

1. On September 7, 2007, plaintiff Erste-Sparinvest filed a shareholder derivative action on behalf of nominal defendant Telik, Inc. (“Telik” or the “Company”) and against defendants Michael M. Wick, Cynthia M. Butitta, Marc L. Steuer, Edward W. Cantrall, Robert W. Frick, Steven R. Goldring, Mary Ann Gray, Richard B. Newman, Stefan Ryser, Reinaldo F. Gomez, Gail L. Brown, and Herwig von Morze (collectively with Telik, the “defendants”).

2. Voluntary dismissal of this action without prejudice to the pending shareholder derivative action and without notice serves the best interests of justice because: (a) defendants have not made or promised any payment, direct or indirect, to the plaintiff or plaintiff's counsel in consideration of the dismissal of this action; (b) there has been no determination respecting plaintiff's standing to pursue claims derivatively on behalf of Telik; and (c) defendants have not filed or served an answer to the complaint or a motion for summary judgment.

WHEREFORE, for the foregoing reasons, plaintiff respectfully requests that the Court grant its motion and dismiss this action without prejudice and without notice pursuant to Fed. R. Civ. P. 41(a)(2) and 23.1 for the reasons set forth herein.

Dated: January 30, 2008

Respectfully submitted,

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